

EXHIBIT A

1 not all of the people who attend meetings of Narcotics
2 Anonymous, are persons who are in recovery, or not in
3 recovery, in respect to narcotics addiction?

4 Is that a fair statement?

5 A That would be the stated purpose of the
6 organization. Again, I don't believe there is any
7 membership rolls or anything like that. I think it's
8 more of a self reporting or self identification.

9 I also believe a number of the
10 meetings are open. You have visitors and other people
11 who seem to hang on and attend for whatever purpose.

12 Q Mr. Chris Brekka and Carolyn Quain, the
13 Defendants in this case, also attend meetings of
14 Narcotics Anonymous. Did you first meet them, one or
15 both at such a meeting?

16 A At a Narcotics Anonymous meeting?

17 Q Yes?

18 A No. I believe I met Mr. Brekka -- he was
19 dating Ms. Quain. It was at her house, like, one of the
20 college football bowl games.

21 Q What college?

22 A I believe it was when Alabama beat the
23 University of Miami, '97, '98.

24 Q Was that in Coral Gables, Miami?

25 A What do you mean?

1 **Q Where was the ball game?**

2 A It was at her house. I don't remember
3 where it was. It was on television.

4 **Q Did you know Ms. Quain before you knew**
5 **Mr. Brekka?**

6 A I had met her before him.

7 **Q Approximately how long have you known Ms.**
8 **Quain?**

9 A Approximately 20, 21 years.

10 **Q And did you have frequent contact with Ms.**
11 **Quain?**

12 A Not really.

13 **Q About how frequently over the 20 years, did**
14 **you have contact with Ms. Quain?**

15 A When I first met her, I would see her at
16 volunteer activities related to Narcotics Anonymous and
17 other events they were sponsoring, every two, three, four
18 months, something like that, so a couple dozen times,
19 something like that.

20 Then for a long period, no contact.
21 I saw her and met him for the first time at her house,
22 and --

23 **Q Go ahead. I am sorry.**

24 A -- that kind of contact varied.

25 **Q Did you become good friends with Ms. Quain?**

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1 Q. Well, just because I know you've sat
2 through it, I'll hopefully do a short form version,
3 but I want to be sure that we still have everything
4 on the record.

5 First, you've been given an oath by the
6 court reporter. And that oath is the same oath that
7 you would get in a court of law, and it carries the
8 same weight and penalties.

9 Do you understand that, sir?

10 A. Yes.

11 Q. Okay. Number two is, because this is --
12 even though we're videotaping this, there's still a
13 court reporter taking this down in stenography, by
14 stenographic means, and what that will result in is
15 a booklet. And so, in order for a clear record to
16 appear in that booklet, it's important that you use
17 verbal answers, "yes" and "nos."

18 Do you understand that?

19 A. Yes.

20 Q. And secondarily, that even though we may
21 anticipate where we're heading with the
22 conversation, it's important that you allow me to
23 finish my questions, I allow you to finish your
24 responses. That way we get a clear record.

25 Is that fair?

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1 testify fully, completely, and accurately here
2 today?

3 A. No.

4 Q. Mr. Brekka, what do you do for a living
5 currently?

6 A. I own a company called Employee Business
7 Solutions.

8 Q. And is that a single company or is there
9 multiple employees --

10 A. There are two companies.

11 Q. I'm sorry. Just let me get my question.

12 A. I apologize.

13 Q. That's okay.

14 Are there more than one Employee Business
15 Solution companies?

16 A. There is.

17 Q. Where are both of those companies located?

18 A. One of them is located in Florida. The
19 second one is located in Nevada.

20 Q. Do you own both of those companies?

21 A. I do.

22 Q. Do you differentiate -- if I say EBS, do I
23 need to differentiate between the Nevada and the
24 Florida corporation?

25 A. Yes.

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1 A. Yes.

2 Q. Another thing is if you need to take a
3 break at any time, as long as there's no question
4 pending, we can take a break, I don't have any
5 problem. If there is a question pending, I will ask
6 that you answer the question, upon which we can then
7 take the break.

8 Is that fair?

9 A. Yes.

10 Q. And as a final point, well, two final
11 points, one being if you don't understand any of my
12 questions, please ask me to rephrase them. Please
13 let me know you don't understand. If you're
14 confused, ask me to restate. I will try to clarify
15 where we're going with it. I know sometimes
16 questions can seem confusing as they come out. So
17 in order to get a clear record, so that we both are
18 talking about apples and apples, if you have any
19 problems, please let me know, and I'll be happy to
20 restate.

21 Is that fair?

22 A. Yes.

23 Q. As a last matter, are you under the
24 influence of any narcotics, alcohol, or any other
25 drugs, treatments, that would affect your ability to

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1 Q. So when I ask you what you currently do
2 for a living, you own a company EBS, and you own
3 both of those companies; correct?

4 A. Yes.

5 Q. Do you do work for both of those
6 companies?

7 A. Yes.

8 Q. Starting with the Florida corporation --
9 actually, I should ask you, which corporation was
10 formed first?

11 A. Florida.

12 Q. And do you recall when the Florida
13 corporation was created?

14 A. 1999.

15 Q. And what type of services does the Florida
16 corporation provide?

17 A. It is an employees assistance company and
18 a consulting company.

19 Q. Excuse me. What is an employee assistance
20 company?

21 A. We offer services to businesses to help
22 their employees with any kind of adverse situation.
23 We're an external provider for companies to do, set
24 up their EAP programs, employees assistance
25 professional programs. And any adverse situation an

4 (Pages 7 to 10)

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1 employee may have, they can contact us and we meet
 2 with them.

3 Q. So, for instance, if an employee of a
 4 company that you represent is having, say, a drug
 5 problem, they would call you?

6 A. They can contact us.

7 Q. And you also said you do some consulting?

8 A. I do.

9 Q. And what type of consulting do you perform
 10 out of the Florida corporation?

11 A. Business development for mental health and
 12 substance abuse services.

13 Q. What does business development entail?

14 A. Marketing for treatment centers, mental
 15 health providers.

16 Q. And do those marketing services include
 17 print ads?

18 A. No.

19 Q. Do those marketing services include
 20 television?

21 A. No.

22 Q. Do they include radio media?

23 A. No.

24 Q. Do they include what I'm going to term,
 25 for lack of a better word, knickknacks, like pens

Page 13

1 performing services that you're doing for the
 2 Florida corporation versus the Nevada corporation?

3 A. Business that I have in Nevada goes under
 4 the Nevada corporation.

5 Q. So any other business outside of Nevada
 6 would go under the Florida corporation?

7 A. Correct.

8 Q. And where is the offices of the Florida
 9 corporation located?

10 A. 8491 Northwest 19th Street, Pembroke
 11 Pines, Florida.

12 Q. You maintain actual office space there?

13 A. I do.

14 Q. And where are the offices in the Nevada
 15 business located?

16 A. 10386 Miners Gulch Avenue, Las Vegas,
 17 Nevada, 89135.

18 Q. And that's your home?

19 A. Correct.

20 Q. And do you have separate billing for the
 21 Florida and Nevada corporations?

22 A. Yes.

23 Q. And who are the shareholders in the
 24 Florida corporation?

25 A. I am.

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1 with names, those sort of things?

2 A. No.

3 Q. Then what does marketing actually entail?

4 A. Business development, meeting with
 5 potential referral sources, potential clients, and
 6 some Internet advertising.

7 Q. Have you been providing all of those
 8 services under your consulting banner since 1999?

9 A. Correct.

10 Q. And moving on to the Nevada corporation,
 11 when was it formed?

12 A. 2004.

13 Q. And why did you form the Nevada
 14 corporation?

15 A. I had plans to expand my business and do
 16 business in Nevada.

17 Q. Was there any strategic reason that you
 18 decided to start a second Nevada corporation instead
 19 of just having the Florida corporation authorized to
 20 do business in Nevada?

21 A. No.

22 Q. And, again, what type of services does the
 23 Nevada corporation provide?

24 A. It mirrors the Florida corporation.

25 Q. And how do you differentiate between

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1 Q. The sole shareholder?

2 A. Correct.

3 Q. Who are the shareholders in the Nevada
 4 corporation?

5 A. I am.

6 Q. The sole shareholder?

7 A. Yes.

8 Q. With regard to the Florida corporation,
 9 who are the officers?

10 A. Myself.

11 Q. And just you?

12 A. Yes.

13 Q. With the Nevada corporation, who are the
 14 officers?

15 A. Myself and my wife, Carolyn Quain.

16 Q. And what is Ms. Quain's officer title?

17 A. She is the secretary.

18 Q. Does she have any duties as secretary?

19 A. Just when we have a board meeting, takes
 20 minutes.

21 Q. And how many employees are there in the
 22 Florida corporation?

23 A. One, myself.

24 Q. And with the Nevada corporation?

25 A. One, myself.

5 (Pages 11 to 14)

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1 regard to the employment agreement were?

2 A. Yes.

3 Q. What, from your perspective, were those

4 disagreements?

5 A. That I would be personally liable for

6 anything if LVRC was to not be successful. And I

7 was at Mr. Smith's whim if I signed the agreement.

8 Q. How would you have been personally liable

9 if LVRC had not been successful?

10 A. Mr. Smith could have taken action against

11 me.

12 Q. In what respect?

13 A. Financially.

14 Q. And what do you mean by if LVRC was not

15 successful?

16 A. If it would have went under, if it would

17 have folded.

18 Q. You're saying that --

19 A. I could have been financially responsible

20 for the debt.

21 Q. So your understanding was that if

22 something had happened financially with LVRC,

23 Mr. Smith could seek compensation from you for that?

24 A. Correct.

25 Q. Were there any issues about you becoming

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1 an owner of LVRC?

2 A. Yes.

3 Q. Was that part of the agreement you were

4 negotiating as well?

5 A. Yes, it was.

6 Q. Do you recall what stake in LVRC, what

7 percentage ownership you were seeking?

8 A. I believe the agreement stated, like, 27

9 percent, 28 percent.

10 Q. Do you recall how much you were going to

11 have to pay for that?

12 A. I do not.

13 Q. Was there going to be a payment for that?

14 A. Yes, there was.

15 Q. So it was a payment, not necessarily a

16 service, for the 27 percent?

17 A. I believe both.

18 Q. And so, at some point, you -- at some

19 point, the agreement just couldn't be reached?

20 A. Correct.

21 Q. Then from that point what ended -- what

22 happened to cause you to leave LVRC?

23 A. I had a phone conversation with Stuart

24 Smith. I told him that the agreement was

25 unacceptable. He stated that I would become a

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1 consultant for him. I told him I would think about

2 it for a few days, and never got back to Mr. Smith.

3 Or I may have gotten back to him and let him know

4 that I was going to be leaving LVRC.

5 MR. GOCHNOUR: How much time do we have?

6 THE VIDEOGRAPHER: A minute.

7 MR. GOCHNOUR: Why don't we take a break,

8 since we're going to have to change the videotape.

9 THE VIDEOGRAPHER: Off the record at

10 11:18.

11 (Short recess)

12 THE VIDEOGRAPHER: Back on the record at

13 12:38.

14 BY MR. GOCHNOUR:

15 Q. Okay, Mr. Brekka, we're back from lunch.

16 Hopefully, we've all had a delicious meal and feel a

17 little bit better.

18 I want to turn a little bit to, again,

19 your actual job duties while you were employed at

20 LVRC.

21 Your employment was from about April of

22 2003 to September of 2003?

23 A. Yes.

24 Q. And how did it come that you became

25 involved with LVRC?

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1 A. I approached Stuart Smith and Frank Szabo

2 about an opportunity of opening a treatment center

3 in Las Vegas.

4 Q. And how did you know Mr. Smith and

5 Mr. Szabo?

6 A. Mr. Smith was a dear friend of mine, and

7 Mr. Szabo was more of an acquaintance that I had met

8 at a Narcotics Anonymous convention.

9 Q. Were they in the process of looking for a

10 treatment facility to open somewhere?

11 A. They were not.

12 Q. How did you decide to approach, again,

13 just say Stuart and Frank, as opposed to Mr. Szabo,

14 excuse me, as opposed to somebody else?

15 A. I had identified a treatment facility that

16 was not occupied, and I had called Frank Szabo and

17 asked him if he would take a ride and take a look at

18 the facility. And I approached Stuart Smith about

19 the opportunity of a treatment center in Las Vegas.

20 Q. How did you identify that there was a

21 nonoperating facility in Las Vegas?

22 A. I had done a search. I was looking for an

23 opportunity to open a treatment center. And in my

24 research, I came across the Fountain Ridge website,

25 and contacted them and was told that the facility

23 (Pages 83 to 86)

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1 was under other management, but that Don Herman was
 2 open to negotiating a sale of the facility.
 3 Q. So were you involved with negotiating the
 4 sale of the facility?
 5 A. I was not, only from, peripherally. I had
 6 identified. And once I approached Stuart with that
 7 proforma that I had designed of a treatment center,
 8 Stuart picked up the ball and did the actual
 9 negotiations of the sale of the facility.
 10 MR. KIRSHMAN: Excuse me. Is there any
 11 way to put a little more air in here? Thank you.
 12 BY MR. GOCHNOUR:
 13 Q. Did you ask for or receive any type of
 14 finder's fee or anything like that?
 15 A. No.
 16 Q. When you approached Mr. Smith about
 17 possibly buying the Fountain Ridge facility or the
 18 assets, however the deal was ultimately structured,
 19 what was your interest in this going to be, in this
 20 project?
 21 A. That I was going to be an owner of a
 22 treatment center.
 23 Q. And in what respects would you have been
 24 one of the owners of the treatment center?
 25 A. I would put some money down, and we would

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1 work a financial arrangement where I would borrow
 2 money and pay back Mr. Smith.
 3 Q. Was there ever a deal or a document that
 4 was signed to that effect?
 5 A. No.
 6 Q. Was that part of what you were trying to
 7 negotiate with the employment agreement?
 8 A. Yes.
 9 Q. So you started in April of 2003. Do you
 10 recall what your position was at LVRC? Did you have
 11 a position?
 12 A. I don't recall.
 13 Q. Did you have any job duties around that
 14 time?
 15 A. I did. The setting up of the operation to
 16 open a treatment center.
 17 Q. And at some point, LVRC was open and
 18 operating?
 19 A. Yes.
 20 Q. Once that happened, what were your job
 21 duties at LVRC?
 22 A. I did operations, marketing.
 23 Q. And what were your operations duties?
 24 A. Day-to-day operations. Oversaw the
 25 admissions department, set up the Internet

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1 marketing.
 2 Q. Anything else?
 3 A. Met with doctors, staffs, potential
 4 clients. Notified my contacts that I was part of a
 5 new venture.
 6 Q. With regard to just -- I think part of
 7 what you stated was you had some sort of supervision
 8 or oversight on the day-to-day operations?
 9 A. Day-to-day admissions.
 10 Q. And you oversaw the admissions department
 11 then?
 12 A. Correct.
 13 Q. And who was the admissions department?
 14 A. One employee, Tom Cook.
 15 Q. And what did Mr. Cook do, as part of the
 16 admissions?
 17 A. He was the admissions coordinator. He
 18 answered the phone on prospective calls, verified
 19 medical coverage, verified financial eligibility,
 20 did a prescreening to make sure that the client was
 21 clinically appropriate.
 22 Q. Was Mr. Cook the only person performing
 23 those services?
 24 A. Yes.
 25 Q. Did you ever perform any of those

Page 90

1 services?
 2 A. Yes.
 3 Q. Did you do that on a daily basis?
 4 A. No.
 5 Q. How often would you be involved in those
 6 activities?
 7 A. Two times a week. Tom went to lunch, on a
 8 break, I'd pick up his duties.
 9 Q. And were you in any way involved in
 10 training Mr. Cook?
 11 A. Yes.
 12 Q. Would you say that you had more
 13 involvement with the admissions duties early on and
 14 more of it shifted to Mr. Cook as time went on; is
 15 that a fair statement?
 16 A. Yes.
 17 Q. So potential patients would call in. And
 18 primarily Tom Cook, but once in a while you would
 19 take the calls?
 20 A. Correct.
 21 Q. And you would go through and verify
 22 medical coverage, financial ability, prescreen them
 23 to see if they were appropriate for that facility?
 24 A. Almost all of that. The medical coverage
 25 was verified by another employee.

24 (Pages 87 to 90)

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1 Q. Who verified the medical coverage?

2 A. I believe her first name is Iris. I do

3 not know her last name.

4 Q. If they were appropriate, you would then

5 do whatever needed to continue on with the

6 admissions process?

7 A. Correct. Schedule an appointment for them

8 to come in, look at the facility, be evaluated for

9 possible admission.

10 Q. Were you part of that process after?

11 A. Just on the introductory of, hi, how are

12 you.

13 Q. So you wouldn't be involved in the -- you

14 used the term that starts with an A, and I'm sorry,

15 like, analysis or --

16 A. Appropriateness?

17 Q. Where they would sit down with a counselor

18 perhaps?

19 A. I don't recall.

20 Q. I mean, would you be involved in, that's

21 it, it was assessment of the patient?

22 A. No.

23 Q. And let's say you had a patient that was

24 inappropriate for LVRC. What would happen to that

25 particular patient?

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1 A. They would be referred to an agency that

2 could assist them.

3 Q. Did you have a list of agencies at LVRC

4 that you referred people to?

5 A. Yes.

6 Q. That was part of LVRC's admissions

7 process, if they don't meet ours, send them out to

8 these people?

9 A. Part of the criteria that we established

10 was we should give everyone that's looking for

11 services a referral if we cannot help them.

12 Q. Was there a list kept of the people that

13 you could or should refer these patients out to?

14 A. Yes.

15 Q. Were you involved in developing that list?

16 A. No. Well, the local list was already

17 established.

18 Q. By who?

19 A. Tom Cook.

20 Q. Okay. Was there a non-local list?

21 A. On a broader scale, our marketing efforts

22 were also a national marketing effort. If we had an

23 inquiry from another city, at times, I did provide

24 resources to Tom.

25 Q. And, again, I believe you testified,

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1 please correct me if I'm wrong, that none of those

2 referrals would have been done by EBS?

3 A. Correct.

4 Q. When you referred somebody out, was there

5 any kind of formalized process, like somebody would

6 know that LVRC was referring patients to them?

7 A. I believe Tom kept a log.

8 Q. But there wasn't some sort of introductory

9 document sent or here's the information on this

10 patient, they may be calling, anything like that?

11 A. On occasion, I would.

12 Q. On occasion, what would you actually send?

13 A. Possibly a cover sheet and an intake form.

14 Q. And that would be the intake form that you

15 -- was there a form intake form, in other words, a

16 standard intake form that you used at LVRC?

17 A. There was.

18 Q. Would that be what you sent along with

19 this cover sheet?

20 A. I believe so.

21 Q. In regard to the admissions process, did

22 you have any other duties that we haven't discussed?

23 A. Not that I can recall.

24 Q. And you also had marketing functions?

25 A. Yes.

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1 Q. And that included Internet marketing?

2 A. Correct.

3 Q. Did you set up the LVRC Internet

4 marketing?

5 A. Yes.

6 Q. And what did that entail?

7 A. Pay-for-click advertising on Google.

8 Q. Is that all?

9 A. I also met with Nick Jones and coordinated

10 the design of a new website.

11 Q. Nick Jones is with LOAD, Ltd.; correct?

12 A. Yes.

13 Q. And that was the Internet service

14 provider?

15 A. That was the website host. I believe Cox

16 Communications is the Internet service provider.

17 Q. So your website was with LOAD, Ltd. Did

18 you do any other -- were there any other computer

19 functions that you were responsible for at LVRC?

20 A. I became responsible for setting up the

21 email.

22 Q. What did you do to set up the email

23 system?

24 A. Nick Jones hosted the email accounts. And

25 he provided me with a user name and password to set

25 (Pages 91 to 94)

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1 up and delete email accounts.
 2 Q. And, again, just so we have a common
 3 definition, you said he provided you with a user
 4 name and password that allows you to access and
 5 delete email. We've been trying to refer to that, I
 6 think, as the administrative function throughout
 7 this litigation or something, usually
 8 administrative. And then we all have a different
 9 word that we all like to use. ,But I'll use
 10 function. Is that fair as a definition?
 11 A. Okay.
 12 Q. So there was an administrative function
 13 set up with LOAD; correct?
 14 A. Yes.
 15 Q. And that allowed you to then use this
 16 function to go in and add and delete emails?
 17 A. Correct.
 18 Q. If somebody had lost their password, you
 19 could go in and either find their password or give
 20 them a new password?
 21 A. No.
 22 Q. What happens if somebody lost their
 23 password?
 24 A. Had to contact Nick Jones.
 25 Q. And did the administrative function allow

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1 you to do anything besides add and delete emails?
 2 A. No. Email accounts, not emails.
 3 Q. I'm sorry. Accounts for specific users;
 4 correct?
 5 A. Yes.
 6 Q. So if Mr. X was hired, you could go set up
 7 Mr. X with an email account?
 8 A. Correct.
 9 Q. And if Mr. X was fired, you could go in
 10 and delete his email account?
 11 A. Correct.
 12 Q. Were there any kind of statistics that
 13 were kept by LOAD, Ltd. or generated by LOAD, Ltd.
 14 that you reviewed?
 15 A. Yes.
 16 Q. And what were those statistics?
 17 A. I believe they were called LOAD stats.
 18 Q. What would be on LOAD stats?
 19 A. The information on the stats for the
 20 website, where hits came from, possibly what key
 21 words someone typed into a search engine to find a
 22 website, how many hits per day, what part of the
 23 country that hit came from.
 24 Q. Anything else?
 25 A. I think that's it.

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1 Q. Do you understand what the term "DNS"
 2 means?
 3 A. No.
 4 Q. Domain name server?
 5 A. No.
 6 Q. And one of the things it allowed you to
 7 look at was possibly the key words that somebody was
 8 using to get to your site?
 9 A. Yes.
 10 Q. Were those the same type of key words that
 11 you were bidding for in the pay-for-click?
 12 A. It could be.
 13 Q. Just so we're clear, for the record,
 14 pay-per-click is the word pay, separate word, P-E-R,
 15 per, and then click; is that correct?
 16 A. I think so.
 17 Q. I was just saying it, and I didn't want it
 18 to come out on the record as the word "paper" and
 19 then "click."
 20 A. Right.
 21 Q. But in the statistics, you would look at
 22 those key words. Would that allow you to make the
 23 choice or at least -- choice is not the proper word.
 24 Would it allow you to look at the information and
 25 decide how much you were going to bid for use of

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1 certain key words?
 2 A. It was a tool that I did use.
 3 Q. And what did that tool allow you to do?
 4 A. It allowed me to see what key words
 5 someone typed in. And if it was relevant, I may
 6 look to use it as a pay-for-click word.
 7 Q. Is there any kind of statistics that
 8 allowed you to alter the text or design of the
 9 website to increase your chances of coming up on a
 10 search engine such as Google or Yahoo?
 11 A. Not that I had the function to do.
 12 Q. You didn't have a function to do that?
 13 A. No.
 14 Q. But you think there was stats at LOAD that
 15 allowed you to do that?
 16 A. No. LOAD could do that. The designer of
 17 the website could do that.
 18 Q. And the designer of the website worked for
 19 LOAD?
 20 A. Yes.
 21 Q. And with regard to that administrative
 22 function -- well, the statistics, was that part of
 23 that administrative function?
 24 A. I was able to view the statistics for the
 25 website, yes.

26 (Pages 95 to 98)

Message0662**Subject:** Fw: Fountain Ridge Web Stats**From:** Chris Brekka**To:** Cbrekka@att.net**Message Body**

----- Original Message -----

From: Nick Jones**To:** Chris Brekka**Sent:** Monday, June 02, 2003 2:20 PM**Subject:** RE: Fountain Ridge Web Stats

Chris,

I've placed the code on your site this morning. You can see the traffic statistics by going to the following link.

<http://www.load.com>

Your login information is:

E-Mail Address: cbrekka@fountainridge.com

Password: cbrekka

You can change your password once you login to your account.

If you have any other questions, please let me know.

Nick

-----Original Message-----

From: Chris Brekka [mailto:cbrekka@worldnet.att.net]**Sent:** Monday, June 02, 2003 8:54 AM**To:** nick@load.com**Subject:** Fountain Ridge Web Stats

Nick,

I need to start analyzing the Fountain Ridge website stats. Please email to directions on how to access this information.

Thanks

Chris

EXHIBITBrekka 10
7/21/06 KF**Outlook Header Information**

Conversation Topic: Fountain Ridge Web Stats

Sender Name: Chris Brekka
 Creation Time: 12/2/2003 7:45:30 AM
 Modification Time: 12/2/2003 7:45:30 AM
 Submit Time: 6/3/2003 5:50:28 PM
 Importance: Normal
 Flags: 1 = Read
 Size: 5778

Standard Header Information

From: "Chris Brekka" <cbrekka@worldnet.att.net>
 To: <Cbrekka@att.net>
 Subject: Fw: Fountain Ridge Web Stats
 Date: Tue, 3 Jun 2003 17:50:28 -0400
 MIME-Version: 1.0
 Content-Type: multipart/alternative;
 boundary="-----_NextPart_000_0019_01C329F8.9EBC61C0"
 X-Priority: 3
 X-MSMail-Priority: Normal
 X-Mailer: Microsoft Outlook Express 6.00.2800.1158
 X-MimeOLE: Produced By Microsoft MimeOLE V6.00.2800.1165

1 mean nobody used it but it was functional?

2 A Correct.

3 Q Okay. So it just sat somewhere?

4 A In a case.

5 Q Okay. Did you take over -- did Chris

6 Brekka have an office while he was there?

7 A Yes.

8 Q Did you take over his office?

9 A Yes, I did.

10 Q And was the computer in that office?

11 A Yes, it was.

12 Q But you never touched -- I mean, you never
13 put it on and did anything on it?

14 A I don't believe so. I was given a
15 computer the first day I started. I used my own.

16 Q Did you have any instructions not to touch
17 that computer?

18 A I don't recall being instructed not to
19 touch it.

20 Q Okay. If Mr. Smith had told you not to
21 touch it, I take it you would remember that?

22 A I probably would remember that.

23 Q Okay. Do you recall where in that office
24 the computer was?

25 A I don't.

1 Q And what was done with the computer that
2 Chris Brekka left when he left LVRC?

3 He did leave the computer; correct?

4 A Yes.

5 Q All right. And did you take over that
6 computer?

7 A I did not.

8 Q Who did?

9 A I don't remember who the employees were.

10 Q More than one used that computer?

11 A I believe there was more than -- that we
12 had identified more -- that two had used it after
13 Chris.

14 Q And can you remember the names of those
15 two people at this time?

16 A I believe George Gatski was one of them.

17 Q And who else?

18 A I can't recall the first one.

19 MR. KIRSHMAN: Why don't we take another
20 two minutes and you think about it.

21 THE WITNESS: Okay.

22 (Recess taken.)

23 MR. KIRSHMAN: Back on the record.

24 Q (BY MR. KIRSHMAN) Mr. Greenstein --

25 A Yes.

1 Q -- do you recall the other person?

2 A Yes. Heather, I believe her last name was
3 Huddleston. I don't want to be held to the last
4 name.

5 Q Okay. And the first name is?

6 A Heather.

7 Q And the other person that you mentioned?

8 A George Gatski.

9 Q Gats?

10 A G-a-t-s-k-i.

11 Q And Gatski. Okay.

12 A Yes.

13 Q What job did George do?

14 A George is a counselor.

15 Q Okay. And a counselor is someone who
16 deals directly with the clients, slash, patients?

17 A That's correct.

18 Q And what about Heather?

19 A Heather was an, I believe, administrative
20 assistant. She did some copyrighting, some design.

21 Q Did she report to you?

22 A She did.

23 Q And do you know how computer literate
24 George was at the time?

25 A I don't believe he's very computer



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Wade Gochnour
HANEY, WOLOSON & MULLINS
1117 South Rancho Drive
Las Vegas
NV 89102

20th July 2006

Dear Mr. Gochnour,

Re: LVRC -vs.- Brekka

Further to my expert's report, I would like to add to following supplemental information;

The recovery of emails from the laptop owned by LVRC, and formally used by Mr. Brekka was a complex process. This involved scanning the Unallocated Area (free space) of the hard drive for encoded files called DBX files. As everything in the Unallocated Area of a hard drive is considered deleted, the DBX files were recovered by searching for their unique file signature header and footers.

In essence, the Unallocated Area of the hard drive was searched for the unique data that appears at the start of a DBX file. Once this header was located, the file is copied until the unique data that appears at the end of the file is located; - This is known as unique file footer.

For clarification purposes, a DBX file is an encoded file, created automatically when using Outlook Express to send and receive email. This file is not viewable without either Outlook Express installed, or by processing with specialized tools. On this occasion, emails were recovered by processing the recovered DBX files with specialized non invasive computer forensic tools.

The emails recovered from the DBX files would not have been available for anyone else to view, without going through the process that is described above. In addition, for anyone to actually go through this process and be successful in the recovery of DBX encoded emails would have required additional specialized knowledge and training.

Sincerely,

David Greetham

Offices located in the United States and the United Kingdom.

1 If this was sent and received by Chris
2 Brekka at the computer that he used --

3 A. Uh-huh.

4 Q. -- while employed at LVRC, does that
5 indicate that anybody at LVRC who had access to
6 Chris Brekka's e-mails, either in the database
7 or downloaded, would have the login
8 information?

9 A. Well, based off this, I would say that
10 if -- if Chris was checking his ATT.net mail at
11 work and he had this set up on his work
12 computer and he did not delete this and remove
13 it after he left and someone was using that
14 computer, then, yeah, they would have access to
15 that.

16 Q. Let me indulge you again for a short
17 -- these short breaks shorten the depositions.

18 A. Sure.

19 (Recess taken)

20 BY MR. KIRSHMAN:

21 Q. Well, while you're looking, there's
22 just a couple of clean-up questions.

23 During the period -- during the
24 period, say, from September 2003 to November
25 2004, what was -- what was the manner in which

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1 (Exhibit 27 marked)
 2 BY MR. GOCHNOUR:
 3 Q. Mr. Brekka, I'm showing you a document
 4 marked as Exhibit 27.
 5 A. Yes.
 6 Q. It's entitled, Daily Update Meeting
 7 September 2, 2003.
 8 A. Yes.
 9 Q. Again, I'll represent to you that this
 10 document came from your home computers.
 11 Were you commonly copied on daily update
 12 meetings?
 13 A. Absolutely.
 14 Q. For what reason?
 15 A. Wanted to know what was going on, as far
 16 as updates with admissions and discharges.
 17 Q. And, again, September 2, 2003, were you
 18 still employed at LVRC at that time?
 19 A. I believe I was.
 20 Q. Do you know, at that time, whether you
 21 were considering leaving LVRC?
 22 A. I do not.
 23 Q. Do you know how you obtained this
 24 document?
 25 A. My guess is if I was not at LVRC, it was

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1 in which you were employed with LVRC?
 2 A. I believe I still was.
 3 Q. As of the 15th, you believe you were still
 4 employed?
 5 A. I guess so.
 6 Q. Do you know the date when you actually
 7 terminated?
 8 A. I do not recall off the top of my head.
 9 And the reason why I say I was still employed,
 10 because one of the notes on the pending admission
 11 says, "Chris is working on this one."
 12 Q. Let me ask you this question. In
 13 relationship to your departure, do you know when
 14 Mr. Greenstein started full-time employment?
 15 A. I believe in September of 2003.
 16 Q. At his deposition, and, again, if I
 17 misstate it, I'm sure we can find the deposition and
 18 get it totally correct, but as I understood it
 19 generally, Mr. Greenstein started the first working
 20 day of the week. And the second or third day he was
 21 there, you came to him and told him you were
 22 leaving. Does that sound accurate?
 23 A. Correct.
 24 Q. And then, by the end of that week you had
 25 left LVRC?

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1 emailed to me by Tom Cook.
 2 Q. And you were not an attendee at this
 3 particular meeting?
 4 A. It doesn't look like I was. Does it say
 5 Chris -- I was not.
 6 Q. Has attendees up at the top.
 7 A. Correct. I was not.
 8 Q. And then the individual names that are
 9 listed down on the left-hand side, what do those
 10 represent?
 11 A. Potential -- either potential clients that
 12 were in-house on the top, and pending clients that
 13 were pending admission.
 14 (Exhibit 28 marked)
 15 BY MR. GOCHNOUR:
 16 Q. And, again, Mr. Brekka, I'm showing you a
 17 document that's been marked as Exhibit 28.
 18 Do you recognize this document?
 19 A. Yes.
 20 Q. I'll again represent to you that this
 21 document was recovered from your home computer and
 22 it's a daily update meeting dated September 15,
 23 2003?
 24 A. Correct.
 25 Q. Do you know if this was still at the time

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1 A. I believe so.
 2 Q. So if we can determine when Mr. Greenstein
 3 started full-time employment, that would give us an
 4 accurate date of when you left?
 5 A. You can do that, yes.
 6 (Exhibit 29 marked)
 7 BY MR. GOCHNOUR:
 8 Q. Mr. Brekka, I'm showing you what's been
 9 marked as Exhibit 29.
 10 And this looks like a broken out
 11 spreadsheet; correct?
 12 A. Correct.
 13 Q. And do you recognize the title on the
 14 first page?
 15 A. I do.
 16 Q. And it was 2003 EBS, Inc. Referrals to
 17 Providers?
 18 A. Correct.
 19 Q. And we can kind of put this together by
 20 looking at the column letters and the numbers on the
 21 side?
 22 A. Yes.
 23 Q. So I don't have, apparently, columns A and
 24 B for lines 1 through 55. Does that look right?
 25 A. Apparently, you do not.

52 (Pages 199 to 202)

1 A Yes.

2 Q Were there conversations with any degree
3 of frequency, like once a week, once every two weeks,
4 once a month?

5 A There were a lot of conversations but at
6 no regular frequency.

7 Q When you say there were a lot, we're
8 talking about approximately 14 months between
9 September 2003 and -- what was it? November 2004?
10 Okay.

11 During that period of time, can you
12 estimate how many conversations there were?

13 A Fifty.

14 Q Fifty. Okay.

15 And are you able to tell us with any
16 degree of accuracy what the subject matter of those
17 conversations were?

18 A Broadly, they related to adjustments to
19 our Web site and making changes to our e-mail
20 accounts. Adding a new e-mail for a new employee or
21 deleting an e-mail account for a former employee or
22 resetting a password or just standard -- I suppose
23 standard --

24 Q When you say resetting a password, was
25 that only e-mail passwords?

1 don't know everything that he logged in. It
2 just happened to be that when I was logged in
3 that day -- I usually don't handle support, but
4 that time of day, I was, and I saw the login.
5 I saw things they were asking.

6 To be honest, I thought it was someone
7 at LVRC wanted to know if I could help them
8 before they, to be perfectly honest, started
9 deleting accounts and then called me and said,
10 "I don't know what happened to my mail," and I
11 had to fix it.

12 Q. When you saw the login --

13 A. Yes.

14 Q. When you saw the login -- and assume
15 pretty accurately that I am not terribly good
16 in this --

17 A. Sure.

18 Q. -- in the jargon, what is the "login"?

19 A. The login is the e-mail address. The
20 e-mail -- the login that was in at that time,
21 the person that logged in used
22 cbrekka@FountainRidge.com.

23 So what I saw on the system was
24 cbrekka@FountainRidge.com logged into our admin
25 system.

1 had access to information -- he just had access
2 to his account that most people didn't have
3 access to. Like they're allowed or authorized
4 to have it, but they just didn't know what they
5 were doing.

6 So but I felt -- I remember meeting
7 with Mr. Brekka, and he seemed internet savvy,
8 so we gave him access.

9 Q. But to your knowledge, at that time,
10 November 19, he was -- that address that he
11 had --

12 A. Right.

13 Q. -- was the -- that Chris Brekka was
14 the only one who had access to that?

15 A. Correct. To my knowledge, yes.

16 Q. Okay. Did you notice what he was
17 looking for, what information he was looking
18 for, when -- he or it or whatever?

19 A. I did not -- I don't recall seeing
20 exactly what he was looking at. I do recall
21 seeing like access to pages of the admin. But
22 the way the system works is there's a delay,
23 and then certain areas that are authorized,
24 they block, they get timed out.

25 So without getting extremely technical

1 on how this Live Person software works, it
2 tracks users to the system. It's more of a
3 support program.

4 It's good, because I'm able to
5 identify clients or past visitors and maybe
6 sell them. If they are a client, I'm able to
7 see if they're logged in and if they're
8 breaking things, honestly, or if they know what
9 they're doing. And then that way, I can offer
10 them support.

11 Q. At that time, November 19, 2004, was
12 there anyone else besides Chris Brekka who had
13 had access to that login?

14 A. Not that I'm aware of. I'd say no.

15 Q. Okay. But I take it it was your
16 belief that since Chris Brekka hadn't been
17 employed by LVRG for some time before
18 November 19 --

19 A. Right.

20 Q. -- that something was amiss?

21 A. Yes. To be honest, most of our
22 clients, they leave a -- they leave access to a
23 login. I thought maybe he left it for Brad to
24 access the system.

25 Q. You don't know one way or the other,

1 A. Uh-huh.

2 Q. What were you telling Brad Greenstein?

3 A. Basically, what I was telling Brad was
4 if you're concerned about -- well, what I was
5 mostly concerned about was e-mail information.
6 If you don't want someone accessing the
7 account, we should change the password.

8 And whoever was logging in as
9 cbrekka@FountainRidge.com, the information
10 hadn't been changed.

11 Q. Now, your system -- your system to
12 identify what -- well, you tell me --

13 A. Okay.

14 Q. -- what did your system do for you
15 that put a red light in your mind about what
16 you saw on November 19?

17 A. Okay. I just want to clarify
18 something real quick. Are we talking about our
19 system as our e-mail system or the Live Person
20 system that helped me track --

21 Q. Well, let me --

22 A. -- like for Exhibit B?

23 Q. -- refer you to Brad Greenstein's
24 affidavit. On the second page, I think it's
25 Line 16.

1 A. Oh, yeah. Okay. That's the Live
2 Person program. That's a third-party program
3 that we use.

4 Q. And did -- did that program enable you
5 to know who, like a person, what person was
6 logging in using that password?

7 A. It will not tell me what person. It
8 will tell me what login ID accessed the system
9 and what IP address they accessed it from.

10 Q. So for example, if I -- if I had that
11 login --

12 A. Uh-huh.

13 Q. -- and I was the originator of that
14 request for information, you couldn't say Norm
15 Kirshman? You would only be able to say
16 whoever's using --

17 A. That is correct.

18 Q. -- using it?

19 A. Correct.

20 Q. Okay. If you look at Line 16, I
21 believe Brad Greenstein said that he was told,
22 or on information and belief, that the system
23 would identify who -- let me see if --

24 A. Oh, I see what you're saying. It
25 says, "allowed them to determine who was on the

1 system at any time."

2 Q. Is that accurate?

3 A. It won't tell them exactly who. The
4 most accurate statement is it will tell you the
5 login ID accessing the system. It will tell
6 you the IP address, which is the, you know,
7 internet address location where that session is
8 taking place from.

9 Q. Okay. So the IP address, in this
10 case, would that have been San Francisco
11 somewhere?

12 A. I don't know. I know that -- now, I
13 know that back then and today, you can track an
14 IP address. That's how the FBI tracks spammers
15 and things like that to a specific residence
16 per se or how they can trace a virus to a
17 specific location.

18 So the IP address tends to be fairly
19 accurate, but there's still some work that
20 needs to go into it, I'm assuming. I'm not an
21 expert in that area.

22 Q. How long -- how long did Load have
23 that capability? Well, let me just ask you
24 this: When did Load first begin to provide
25 services to LVRC?

1 A. The login -- I'm sorry -- that we
2 still had an old address being used. At that
3 time, I called and said -- actually, I think my
4 first statement was, "I see you're in the
5 system. Do you want me to change your login?"

6 I was kind of laughing about it, at
7 which point I got a, "What are you talking
8 about?"

9 Q. When you made that statement, "It
10 looks as though you're in the system," was it
11 your belief that Brad Greenstein had the login
12 that was in place while Chris Brekka was
13 employed at LVRRC?

14 A. I believed someone was logging in, and
15 I just thought the information was old. I
16 don't -- I don't know who logged in, I guess,
17 is my point. It could have been -- I would be
18 speculating on that.

19 Q. Well, did you have any belief that
20 anybody besides Chris Brekka -- anybody who was
21 employed in November, November 19, 2003, had
22 the login?

23 A. It is -- I can tell you the reason I
24 called him was because I thought someone at
25 their company must have had access to it,

1 because I did not think in -- in my estimation,
2 we had not had clients logging in after the
3 fact. So I thought someone must have been
4 accessing using that user name and password.

5 Q. Okay.

6 A. You know, I called because Brad was my
7 point of contact. Does that mean I thought it
8 was him? Not necessarily. I just saw that
9 someone was logged in.

10 Q. So just so I hopefully understand it,
11 just logging into the system --

12 A. Uh-huh.

13 Q -- through the use of this
14 administrative code -- is that the right
15 terminology?

16 A. Yeah. I mean, it's an admin user name
17 and password.

18 Q. Okay. Just logging in, without going
19 further, would not give whoever it was the
20 content of any e-mails? Is that a correct
21 statement?

22 A. That's correct.

23 Q. Okay. That person or persons would
24 have to take it one step further and get the
25 password for a given e-mail address?

1 A. No.

2 Q. No? Okay. And he wouldn't be able to
3 find out from that computer what the password
4 was?

5 A. No.

6 Q. Okay.

7 A. At least, they better not, or we're in
8 trouble.

9 Q. Well, they couldn't do it if you were
10 the barrier; right?

11 A. Correct.

12 Q. On Exhibit B, like the third paragraph
13 from the bottom --

14 A. Okay.

15 Q. -- there are uppercase letters --

16 A. Uh-huh.

17 Q. -- like C-E-R-T --

18 A. CERTnet, NETBLK, CERFnet --

19 Q. Right. Can you translate those into
20 simple English for me?

21 A. Sure. Basically, what that is saying
22 is that the IP in question, which I identified
23 as 199.107.156.30 --

24 Q. Did you ever find out where that was?

25 A. Yeah. Right below -- well, I did not

1 Q. And did that administrative code
2 system enable him to have -- well, what was the
3 scope of access that he would have to LVRC
4 data?

5 A. Okay. His login, which is what we're
6 talking about now, is exactly what you would be
7 seeing in Exhibit B. So what we're talking
8 about now is exactly that. He would have
9 access to whatever was set up on our system,
10 which I think at the time was e-mail statistics
11 and DNS. DNS would be the server settings and
12 mail settings. Statistics would be web
13 traffic. And e-mail is e-mail.

14 Q. And he could get into anybody's
15 e-mail?

16 A. Yes.

17 Q. So that system was in place --

18 A. Actually, let me rephrase that.

19 Q. Sure.

20 A. He could see any person's e-mail
21 address and password, but he could not read
22 their mail from there.

23 Q. He could not?

24 A. Correct. That's a more accurate
25 statement.

1 system at any time."

2 Q. Is that accurate?

3 A. It won't tell them exactly who. The
4 most accurate statement is it will tell you the
5 login ID accessing the system. It will tell
6 you the IP address, which is the, you know,
7 internet address location where that session is
8 taking place from.

9 Q. Okay. So the IP address, in this
10 case, would that have been San Francisco
11 somewhere?

12 A. I don't know. I know that -- now, I
13 know that back then and today, you can track an
14 IP address. That's how the FBI tracks spammers
15 and things like that to a specific residence
16 per se or how they can trace a virus to a
17 specific location.

18 So the IP address tends to be fairly
19 accurate, but there's still some work that
20 needs to go into it, I'm assuming. I'm not an
21 expert in that area.

22 Q. How long -- how long did Load have
23 that capability? Well, let me just ask you
24 this: When did Load first begin to provide
25 services to LVRC?

1 A. No.

2 Q. No? Okay. And he wouldn't be able to
3 find out from that computer what the password
4 was?

5 A. No.

6 Q. Okay.

7 A. At least, they better not, or we're in
8 trouble.

9 Q. Well, they couldn't do it if you were
10 the barrier; right?

11 A. Correct.

12 Q. On Exhibit B, like the third paragraph
13 from the bottom --

14 A. Okay.

15 Q. -- there are uppercase letters --

16 A. Uh-huh.

17 Q. -- like C-E-R-T --

18 A. CERTnet, NETBLK, CERFnet --

19 Q. Right. Can you translate those into
20 simple English for me?

21 A. Sure. Basically, what that is saying
22 is that the IP in question, which I identified
23 as 199.107.156.30 --

24 Q. Did you ever find out where that was?

25 A. Yeah. Right below -- well, I did not

1 know where it was. I do know that the
2 provider, which ARIN identified as being
3 CERTnet, using a NETBLK and a C Class, a sub
4 C Class of 199.105, basically, what it means is
5 that IP address fell within that range of that
6 provider. That provider would have a much
7 greater likelihood of identifying where that IP
8 address came from.

9 Q. Have you ever been asked by anybody at
10 LVRC to take that next step?

11 A. No.

12 Q. Now, Redwood City is -- I recognize
13 that. Is that the location of the provider?

14 A. I don't know. I know typically, it
15 comes back, and if you run a lookup, it will
16 provide information like that. It could be
17 Redwood City anywhere. But typically, when
18 that information gets kicked back, that's what
19 the internet registry reports back. So I just
20 copied that information and pasted it in.

21 Q. And if I were -- not me, God forbid --
22 but if Lynn or Leon here wanted to take that
23 next step, is this information adequate for
24 them to do it based upon what's typed out
25 there?

1 A. It's a good start to know where to
2 look. Absolutely.

3 Q. And it was -- it was -- I see the
4 next-to-the-last paragraph on Exhibit B, it
5 says, "Brad instructed me" -- quote, "Brad
6 instructed me to deactivate the login
7 information for cbrekka@FountainRidge.com" --

8 A. Uh-huh.

9 Q. -- "at which time I changed the
10 password associated with the account so that
11 the login could not access the system."

12 A. Uh-huh.

13 Q. So would it be reasonably accurate
14 that on or about November 19, 2004, the
15 chrisbrekka@FountainRidge.com login was
16 deactivated?

17 A. Based off -- I mean, I don't recall
18 exactly. But based off what I wrote, I'd say
19 yeah.

20 Q. Your records would show that?

21 A. No. I went directly into a database
22 and did what is called a hard code change, so
23 it's not logged, the reason being is our system
24 was probably not well enough developed to
25 change passwords via a web page, so I had to go

- 3.9 The hard drive was manufactured by Toshiba, and was model no. MK6021Gas s/n. 23LB2727T – A chain of custody was created, and a forensically sound image of the hard drive was created at my business premises on 20th October 2005.
- 3.10 On 26th October 2005, I began my investigation into the hard drive provided to me by Stuart Smith. I noted that the computer hard drive had been used recently, which was expected, as I had been advised that the computer had been redeployed since the termination of Brekka's employment with LVRC.
- 3.11 I performed a forensically sound process to recover deleted files from this hard drive. Deleted files are never truly deleted until the area of the hard drive that they occupy is actually overwritten with new data. (A more detailed description of recovering deleted files can be found at the end of this report in appendix 2). – In particular, I searched for evidence of deleted email.
- 3.12 I discovered a small DBX file, which is known to me to be used for the storage of email using **Microsoft Outlook Express** software. I processed this DBX file and noted many emails involving Christopher Brekka, using the email of addresses cbrekka@aol.com, cbrekka@att.net and cbrekka@fountainridge.com – During this timeframe, cbrekka@fountainridge.com was the business email used by Brekka while working for LVRC
- 3.13 During my review of these emails, I noticed that Brekka had sent business records from his business email address to his personal email address (and to Carolyn Quain) within a few days prior to his departure from LVRC. – These emails included attachments such as contract details, client information and formal agreements. On 29th August 2005 alone, eleven (11) documents were forwarded to Brekka's personal email addresses. These attachments appear to be private company records.
- 3.14 I collated my findings and passed these results to Wade Gochnour for review.
- 3.15 On 15th December 2005 I attended the offices of the U.S. Marshals in Las Vegas, NV. I was met by Steven Carpenter and Christopher Brekka. The purpose of this meeting was to make duplicates of the forensic images currently being held by the U.S. Marshals office. I proceeded to make a duplicate for Brekka and a duplicate for my own use. The original data was retained by the U.S. Marshals office.
- 3.16 I started a chain of custody documentation for my copy of the images, and placed the duplicates in our data safe, at our business premises.
- 3.17 In mid January 2006, I began investigating the images DAG-001 through DAG-005
- 3.18 I noted that the emails previously mentioned in section 3.13 of this report, were located on one of the hard drive images duplicated on 15th December 2005 - I also noted that these emails had been opened and read, with the attachments downloaded.
- 3.19 During my review of these duplicates, I recovered the deleted Internet History from the hard drive images. When a computer accesses the Internet, a temporary copy of the

4 My opinion

It is my professional opinion that Christopher Brekka (or the user of his computers) has taken without authority, private business records from LVRC. These private business records equate to the intellectual property of LVRC. – Sections 3.13 & 3.18 of this report evidence this.

In addition, section 3.20 & 3.21 of this report demonstrate that the user of the Brekka computer has gained unauthorised access to confidential business records in the form of web site statistics. As Brekka left LVRC in September 2003, there is no plausible reason for Brekka (or the user of his computer) should have access to this confidential information.

Furthermore, section 3.23 of this report indicates that the preservation order that was served on Brekka 25th August 2005 was not adhered to, and the actions in relation to the system restore point may have deleted and made unrecoverable, electronic files from the computer system labelled DAG-001

I address the issues raised in section 2 of this report as follows:

- a) *Is there any evidence that private company records and intellectual property was taken from the LVRC computer systems?*

There is evidence that files were electronically transmitted from LVRC using email during late August 2003

- b) *Is there any evidence that Christopher Brekka copied private company records directly prior to him leaving the employment of LVRC in September 2003?*

There is evidence to support the allegation that Brekka stole private company records from LVRC, directly prior to the termination of his employment in September 2003. This is evidenced in several areas and most conclusively when he sends emails to himself and his wife Carolyn Quain, with private company records as attachments.

- c) *Is there any evidence to suggest that Christopher Brekka has gained access to the LVRC computer systems, after he left the organization in September 2003?*

I did not investigate the computer network at LVRC, and therefore am unable to ascertain if any unauthorized access was gained at this time. However, it is evident that unauthorised access to the LOAD system was obtained by the Brekka computers labelled DAG-001 & DAG-002 as recently as 9/2005. The information that was accessed at this point contained private company records

Brad Greenstein

From: Nick Jones [nick@load.com]
Sent: Friday, November 19, 2004 3:58 PM
To: 'Brad Greenstein'
Subject: Unauthorized Login

Brad,

Per our conversation, I have outlined the series of events that occurred on Friday, November 19, 2004 at approximately 3:30PM PST

An individual using the login ID cbrekka@fountainridge.com logged into the Load Admin system. The e-mail account was directly linked to the Las Vegas Recovery/Fountain Ridge account which managed the e-mail system, web statistics, and DNS for various domain names.

I was notified of this peculiar activity on our system because of a service that we subscribe to called Live Person, which allows me to track users on our site and which products they are viewing. When I noticed the login cbrekka@fountainridge.com logged into the Admin system, I immediately called Las Vegas Recovery and check with Brad Greenstein that no user on the staff was logged in under the given account login

I notified Mr. Greenstein that the IP Address being used during the user session was 199.107.156.30

According to ARIN, the IP address belonged to

The individual who was logged into the Admin system viewed the LoadMail accounts, LoadStats system as well as the rest of the Account information. No modifications were made to the data on file.

The IP Address used during the login session was 199.107.156.30 which ARIN identified belonging to.

CERTnet NETBLK-CERFNET-CBLK2 (NET-199-105-0-0-1) 199.105.0.0 - 199.108.255.255 AND
STSN - Redwood City NETBLK-ATTENS-008027 (NET-199-107-152-0-1) 199.107.152.0 - 199.107.159.255

Brad instructed me to deactivate the login information for cbrekka@fountainridge.com at which time I changed the password associated with the account so that the login could not access the system.

If there is anything more that I can do to assist Las Vegas Recovery, please do not hesitate to let me know.

Regards,
Nick Jones

11/22/2004

Exh. <u>B</u>	Date <u>11/22/04</u>
Witness <u>N. Jones</u>	
Kerrie Keller CCR 612	

LVRC00224

1 A. It's a good start to know where to
2 look. Absolutely.

3 Q. And it was -- it was -- I see the
4 next-to-the-last paragraph on Exhibit B, it
5 says, "Brad instructed me" -- quote, "Brad
6 instructed me to deactivate the login
7 information for cbrekka@FountainRidge.com" --

8 A. Uh-huh.

9 Q. -- "at which time I changed the
10 password associated with the account so that
11 the login could not access the system."

12 A. Uh-huh.

13 Q. So would it be reasonably accurate
14 that on or about November 19, 2004, the
15 chrisbrekka@FountainRidge.com login was
16 deactivated?

17 A. Based off -- I mean, I don't recall
18 exactly. But based off what I wrote, I'd say
19 yeah.

20 Q. Your records would show that?

21 A. No. I went directly into a database
22 and did what is called a hard code change, so
23 it's not logged, the reason being is our system
24 was probably not well enough developed to
25 change passwords via a web page, so I had to go

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1 LAS VEGAS, NEVADA, FRIDAY, JULY 21, 2006;
2 9:12 A.M.
3 -o-o-o-
4
5 (Whereupon, the parties agreed to waive
6 the reporter's duties under NRCF Rule
7 20(b)(4).)
8 THE VIDEOGRAPHER: This is the beginning
9 of videotape number one, deposition of Christopher
10 Brekka, in the matter of LVRC Holdings versus
11 Brekka, held at 1117 South Rancho Drive on July
12 21st, 2006, at 9:11 a.m. The court reporter is Kim
13 Farkas. I am Dustin Kittleson, the videographer, an
14 employee of Litigation Services & Technologies,
15 located at 1640 West Alta Drive, Las Vegas, Nevada,
16 89106. This deposition is being videotaped at all
17 times unless specified to go off the video record.
18 Would all present please identify
19 themselves beginning with the witness.
20 THE WITNESS: Christopher James Brekka.
21 MR. GOCHNOUR: Wade Gochnour, on behalf of
22 Plaintiffs and Third-party Defendant Stuart Smith.
23 MR. KIRSHMAN: Norman Kirshman of Parsons
24 Behle & Latimer, on behalf of the Defendants and
25 particularly today representing the deponent.

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1 MR. GOCHNOUR: Do you need anything else,
2 Mr. Videographer?
3 THE VIDEOGRAPHER: No.
4 MR. GOCHNOUR: Would you swear the witness
5 in.
6 CHRISTOPHER BREKKA,
7 was called as a witness, and having been first duly
8 sworn, was examined and testified as follows:
9
10 EXAMINATION
11 BY MR. GOCHNOUR:
12 Q. Good morning. Can you please state your
13 name and spell your last name for the record.
14 A. Christopher James Brekka, B-R-E-K-K-A.
15 Q. And, Mr. Brekka, at any time after you
16 left employment with LVRC, did you access the LOAD
17 account on behalf of LVRC?
18 A. No.
19 Q. Have you ever had your deposition taken
20 before?
21 A. No.
22 Q. Okay. You've sat through several
23 depositions in this case; correct?
24 A. Yes.
25

3 (Pages 3 to 6)

1 MR. KIRSHMAN: Are we going to get it?

2 MR. GOCHNOUR: We're not going to rely on
3 any loss set forth in the financial statements as a
4 basis for our damages. We've used this information
5 and it's gone to the expert in just that exact same
6 form. You're getting exactly what he's getting to
7 come up with the damages.

8 MR. KIRSHMAN: And the damages are not
9 going to be based on the performance of LVRC after
10 Chris Brekka left?

11 MR. GOCHNOUR: Correct.

12 MR. KIRSHMAN: Are you going to inform us
13 of what the damages are, what components the damages
14 are going to have?

15 MR. GOCHNOUR: Yeah. It will be part of
16 the expert's report. As I understand, it's due the
17 31st. We're busy working, trying to get that all
18 together for you and put it to bed for you.

19 MR. KIRSHMAN: Can you tell me what the
20 purpose of -- what's below the redactions? If you
21 don't want us to know specifically, what categories
22 of information are redacted? It's pretty odd for me
23 to look at something like this and know what is not
24 being shown.

25 MR. GOCHNOUR: It's probably, what, vendor

experience. I have reviewed and relied upon a number of documents, which are listed in Tab 3. In support of my opinions, I may use at trial the exhibits and information listed in this disclosure as well as other exhibits or demonstrative aids made or derived from the exhibits or information listed in this disclosure, or other materials obtained in discovery or otherwise in this action.

7. It is my understanding that discovery is still outstanding. If additional documents or other information becomes available or comes to my attention, I may have additional comments and may revise or supplement my opinion. I am aware of my continuing obligation under Rule 26 to supplement this report as, and if, additional information becomes available.

IV. Conclusions

8. The loss incurred by LVRC as a result of the actions of the defendants is \$1,143,898. I am awaiting receipt of EBS financial statements to determine unjust enrichment earned by EBS as a result of the actions of the defendants and may update or revise my report should these or other documents come to my attention.

V. Statement of Opinions and Reasons and Bases Therefor

Background

9. LVRC operates Las Vegas Recovery Center, a private, freestanding, medically managed inpatient detoxification and substance abuse center in Las Vegas.¹ EBS is in the business of providing Employee Assistance Programs (EAP) to companies for the benefit of employees and their family members.² EBS also obtains potential referrals for addiction rehabilitation services, and provides referrals of potential patients to rehabilitation facilities through the use of internet sites and advertisements.³ EBS also provides consulting and business development including internet marketing.⁴

¹ www.lasvegasrecoverycenter.com

² www.ebs-eap.com

³ Complaint, para. 12.

⁴ Deposition of Christopher Brekka on July 24, 2006.

10. I am informed that Mr. Brekka was employed by LVRC from April 2003 through September 2003, and had unauthorized access to LVRC's system through November 19, 2004.

11. According to the Uniform Trades Secrets Act, Section 3, if the defendant is found liable, the plaintiff is entitled to recover damages for misappropriation of trade secrets:

"Damages can include both the actual loss caused by misappropriation and the unjust enrichment caused by misappropriation that is not taken into account in computing actual loss. In lieu of damages measured by any other methods, the damages caused by misappropriation may be measured by imposition of liability for a reasonable royalty for a misappropriator's unauthorized disclosure or use of a trade secret."

LVRC's Loss

12. I reviewed financial information provided by LVRC and computed the expenses incurred by LVRC in designing and developing its website, generating keywords for webpage optimization, and utilizing the internet to market LVRC's services to potential clients. It is my understanding that each of these areas of expense was compromised by the actions of Mr. Brekka.

13. I reviewed the expenses for the time period from Mr. Brekka's initial involvement with LVRC, March of 2003⁵, through November 19, 2004, the last date he had access to LVRC's system. I also reviewed expenses incurred by LVRC from November 20, 2004 through August 22, 2005, since Mr. Brekka's prior involvement continued to comprise the effectiveness of LVRC's online marketing.

14. I then reviewed the hours spent by LVRC employees and contractors in internet and non internet marketing activities. Based on my years of experience, conversations with company officers, and information provided by LVRC, I calculated the expense incurred by LVRC in internet marketing activities compromised by Mr. Brekka's actions.

⁵ I examined an expense report from Mr. Brekka that included expenses from March 24, 2003.

LVRC Holdings v. Brekka
Advertising Expense Losses
April 1, 2003 through August 22, 2005

Schedule 2

	4/1/03 - 9/3/03	9/4/03 - 12/31/03	1/1/04 - 11/19/04	Total for 9/4/03 - 11/19/04	11/20/04 - 12/31/04	1/1/05 - 8/22/05	Total for 11/20/04 - 8/22/05	Total Advertising
Online Internet Advertising								
Online Marketing	\$ 743	\$ 8,591	\$ 68,299	\$ 76,890	\$ 13,491	\$ 46,825	\$ 60,316	\$ 137,949
Web Page Design	2,725	60	-	60	-	-	-	2,785
E-mail Marketing	-	-	60	60	410	1,125	1,535	1,595
Marketing Contract Labor (a)	-	-	24,439	24,439	4,500	-	4,500	28,939
Other (b)	-	-	-	-	1,151	-	1,151	1,151
Total Online Internet Advertising	3,468	8,651	92,798	101,449	19,552	47,950	67,502	172,419
50% of Online Internet Advertising (c)	-	-	-	-	-	-	33,751	33,751
Total Online Internet Advertising Losses	3,468	8,651	92,798	101,449	19,552	47,950	33,751	138,668
Other Advertising								
Print Advertising	426	-	12,719	12,719	2,848	120,097	122,945	136,090
Conference Expense	-	850	7,309	8,159	-	3,810	3,810	11,969
Marketing Contract Labor (d)	-	10,500	1,406	11,906	-	22,405	22,405	34,311
Other Advertising Expense	-	116	5,699	5,815	2,510	944	3,454	9,269
Merchandise Marketing	-	-	33,038	33,038	-	4,445	4,445	37,483
Open House Promotions	-	-	2,775	2,775	-	2,941	2,941	5,716
Salaries & Wages, Inc. Payroll Taxes	-	-	45,339	45,339	7,552	-	7,552	52,891
Advertising - Other	-	-	2,320	2,320	2,320	-	2,320	4,640
Conference Sponsoring Fees	-	-	-	-	1,000	2,650	3,650	3,650
Radio Marketing	-	-	-	-	-	62,300	62,300	62,300
TV Marketing	-	-	-	-	-	176,042	176,042	176,042
Total Other Advertising Losses	426	11,466	110,605	122,071	16,230	395,634	411,864	534,361
Total Advertising Expense	3,894	20,117	203,403	223,520	35,782	443,584	479,366	706,780
50% of Total Other Advertising Expense (e)	213	5,733	55,303	61,036	8,115	197,817	205,932	267,181
Total Advertising Losses	\$ 3,681	\$ 14,384	\$ 148,101	\$ 162,485	\$ 27,667	\$ 245,767	\$ 239,683	\$ 405,849

Notes:

Obtained from the advertising expense portion of the GL provided by LVRC.

(a) Included payments to Bernie Grohsman. GL memo notations by Mr. Grohsman's name included "internet marketing" and "online marketing".

(b) Included since the memo said "Online Advertising".

(c) Assumed Brekka is using LVRC's key words after he is no longer able to access LVRC's system.

(d) All other payments not referenced in Note (a) above.

(e) Assumed 50% since all other forms of advertising includes a reference to LVRC's website.

LVRC Holdings v. Brekka
Marketing Expense Losses
April 2003 Through Present

Schedule 3

Provided By LVRC		Calculated	
Non-Internet Marketing Hours or \$s	Internet Marketing Hours or \$s	50% of Non- Internet Marketing (c)	100% of Internet Marketing Losses

April 2003 - September 2003

Employees		Provided By LVRC		Calculated	
Non-Internet Marketing Hours or \$s	Internet Marketing Hours or \$s	Rate	50% of Non- Internet Marketing (c)	100% of Internet Marketing Losses	Marketing Expense Losses
80	20	\$ 100.00	\$ 4,000	\$ 2,000	\$ 6,000
50	-	49.22	1,231	-	1,231
120	-	25.64	1,538	-	1,538
40	-	25.26	505	-	505
40	-	24.14	483	-	483
April 2003 - September 2003 Subtotal					9,757

September 2003 - November 19, 2004

Employees		Provided By LVRC		Calculated	
Non-Internet Marketing Hours or \$s	Internet Marketing Hours or \$s	Rate	50% of Non- Internet Marketing (c)	100% of Internet Marketing Losses	Marketing Expense Losses
100	50	100.00	5,000	5,000	10,000
268	40	54.86	7,351	2,194	9,546
130	20	49.22	3,199	984	4,184
200	-	25.64	2,564	-	2,564
25	-	25.26	316	-	316
60	-	24.14	724	-	724
200	50	15.98	1,598	799	2,397
50	-	26.00	650	-	650
30	10	14.03	210	140	351
40	-	63.79	1,276	-	1,276
30	-	25.12	377	-	377
40	-	19.74	395	-	395
35	-	17.78	311	-	311
40	10	89.78	1,796	898	2,693
10	-	40.22	201	-	201
\$ 18,929.84	\$ 6,309.95	N/A	9,465	6,310	15,775
September 2003 - November 19, 2004 Subtotal					15,775

(b) full time marketing employee

**LVRC Holdings v. Brekka
Marketing Expense Losses
April 2003 Through Present**

Schedule 3

	Provided By LVRC			Calculated		
	Non-Internet Marketing Hours or \$s	Internet Marketing Hours or \$s	Rate	50% of Non- Internet Marketing (c)	100% of Internet Marketing	Marketing Expense Losses
<u>Contractors</u>						
Mel Pohl	90	10	218.41	9,828	2,184	12,013
John Lieberman (Marketing only contractor) (b)		3,467.95	N/A	5,202	3,468	8,670
Merrill Kaempfert (Marketing only contractor) (b)	10,403.86	1,182.09	N/A	1,773	1,182	2,955
Michael Polin (Marketing only contractor) (b)	3,546.26	2,500.00	N/A	3,750	2,500	6,250
TA Rico (Rico Media, Marketing only contractor) (b)	7,500.00	8,124.00	N/A	12,186	8,124	20,310
	24,372.00					101,958
September 2003 - November 19, 2004 Subtotal						
<u>November 20, 2004 - Present</u>						
<u>Employees</u>						
Stuart Smith	200	100	100.00	10,000	10,000	20,000
Brad Greenstein	365	75	54.86	10,012	4,115	14,126
Frank Szabo	100	150	49.22	2,461	7,383	9,844
Tommie Cook	200	-	25.64	2,564	-	2,564
Kristine Renn	150	-	26.00	1,950	-	1,950
Jerry Kay Gath	10	-	14.03	70	-	70
Kim Bland	60	-	63.79	1,914	-	1,914
Melanie Aldis	250	-	25.12	3,140	-	3,140
Bill Peiffer	50	50	19.74	494	987	1,481
Edle Gracia	300	-	17.78	2,667	-	2,667
Chuck Lehman	300	100	89.78	13,467	8,978	22,445
Jeannie Lehman	100	-	40.22	2,011	-	2,011
Vincent Marfuggi	150	-	19.78	1,484	-	1,484
Whitney Porter	100	-	15.51	776	-	776
Dustin Koenig	150	100	19.78	1,484	1,978	3,462
Nicholas Armstrong	100	-	29.25	1,463	-	1,463
Sara Drzewiecki	40	-	15.38	308	-	308

	Provided By LVRC				Rate	50% of		Calculated
	Non-Internet		Internet Marketing			Non-Internet Marketing (c)	100% of Internet Marketing	
	Marketing Hours or \$s	Hours or \$s	Marketing	Expense				
Tony Greco	600	200	44.74	13,422	8,948	22,370		
Lindsey Webb	60	-	18.16	545	-	545		
Lynette Medeiros	40	-	16.61	332	-	332		
Mary Bohanan	100	-	26.22	1,311	-	1,311		
Brian Nahmias	350	50	18.48	3,234	924	4,158		
Josh Koop	150	-	17.01	1,276	-	1,276		
Erin Phillips	40	-	13.28	266	-	266		
Nancy Schenck	220	880	43.74	4,811	38,491	43,303		
Adam Englander	50	150	66.65	1,666	9,998	11,664		
Greg Phillips (full time marketing employee) (b)	\$ 13,350.84	\$ 4,450.28	N/A	6,675	4,450	11,126		
Jeri Wicker (full time marketing employee) (b)	12,375.00	4,125.00	N/A	6,188	4,125	10,313		
Doreen Nichols (full time marketing employee) (b)	18,294.11	6,098.04	N/A	9,147	6,098	15,245		
Merrill Kaempfert (full time marketing employee) (b)	22,674.83	7,558.28	N/A	11,337	7,558	18,896		
Bob Jordan (full time marketing employee) (b)	8,565.55	2,855.18	N/A	4,283	2,855	7,138		
Contractors								
Mel Pohl	280	40	218.41	30,577	8,736	39,314		
Terrance Porretto (Internet Marketing only Contractor) (b)	\$ 31,290.00	\$ 10,430.00	N/A	15,645	10,430	26,075		
Jim Tracy (Marketing only contractor) (b)	27,636.53	9,212.18	N/A	13,818	9,212	23,030		
Tom Brennan (Marketing only contractor) (b)	30,981.77	10,327.26	N/A	15,491	10,327	25,818		
Darrell Prescott (Marketing only contractor) (b)	4,500.00	1,500.00	N/A	2,250	1,500	3,750		
Carol Peake (Marketing only contractor) (b)	13,001.25	4,333.75	N/A	6,501	4,334	10,834		
Stephen Levy-Mazin (Marketing only contractor) (b)	19,370.30	4,456.77	N/A	6,685	4,457	11,142		
Rod Espudo (Marketing only contractor) (b)	15,589.43	5,196.48	N/A	7,795	5,196	12,991		
Jack Fahey (Claudia, Inc, Marketing only contractor) (b)	30,226.92	10,075.64	N/A	15,113	10,076	25,189		
Michael Polln (Marketing only contractor) (b)	15,408.75	5,136.25	N/A	7,704	5,136	12,841		
November 20, 2004 - Present Subtotal						428,632		
						\$ 540,347		

November 20, 2004 - Present Subtotal

TOTAL

LVRC Holdings v. Brekka
Marketing Expense Losses
April 2003 Through Present

Schedule 3

Provided By LVRC				Calculated	
Non-Internet Marketing Hours or \$s	Internet Marketing Hours or \$s	Rate		50% of Non- Internet Marketing (c)	100% of Internet Marketing Expense Losses

Notes:

- (a) Mr. Smith does not draw a salary. Based on the size of the company, an annual salary of \$200,000 per year appears reasonable.
- (b) LVRC has assumed that 75% is attributable to Non-Inter Marketing and 25% is attributable to Inter Marketing.
- (c) Assumed 50% since most Non-Internet Marketing refers to LVRC's website.

15. According to LVRC company officers, all advertising and marketing activities undertaken by LVRC make reference to the LVRC website and refer potential clients there for additional information. As a result of Mr. Brekka's actions, potential clients attempting to access LVRC's website through commonly used search engines such as Google, may not see LVRC listed as prominently in a search because the keywords used have been diluted in their effectiveness by Mr. Brekka's actions. As a result, non internet marketing activities have been detrimentally affected.

16. To determine this loss to LVRC, I calculated the hours spent by employees and contractors on non internet advertising and marketing. Based on my discussions with company officers, it was estimated that the effectiveness of the advertising had been reduced by approximately 50% due to the actions of Mr. Brekka. Therefore, 50% of the expense of these employees and contractors was included in the loss to LVRC.

17. An additional category of loss to LVRC is the time spent by LVRC employees preparing and reviewing documents related to this action. The expense of these lost hours is included in the losses to LVRC attributable to the actions of Mr. Brekka. The details of my calculations of LVRC's loss are provided in Tab 2.

EBS' Unjust Enrichment

18. I reviewed available information regarding EBS's annual revenue from January 1999 through March 2002, the period prior to Mr. Brekka's employment with LVRC. I also reviewed revenue for 2003. I have not yet received financial information subsequent to 2003 to determine if EBS was unjustly enriched due to the actions of Mr. Brekka. I reserve the right to update my report if additional information becomes available.

LVRC Holdings v. Brekka
Losses Related to LVRC v. Brekka

Schedule 4

<u>Employee Name</u>	<u>Hours</u>	<u>Rate</u>	<u>Total Amount</u>
Stuart Smith (a)	860	\$ 100.00	\$ 86,000
Brad Greenstein	860	54.86	47,180
Frank Szabo	172	49.22	8,466
Adam Englander	100	66.65	6,665
Debbie Champine	40	25.87	1,035
Dale Morris	40	32.89	1,316
Deyna Chavez	40	21.40	856
Mike Garone	40	20.93	837
Lynn Baumann	340	56.50	19,210
Kristine Clobes	85	19.00	1,615
All Staff Meeting	3	1,036.98	3,111
			<hr/> 176,291
Total Employee Time Cost			
Additional Hard Costs			5,000
Postage/Copying/Phone			
			<hr/> \$ 181,291
Losses Related to LVRC v. Brekka			

Notes:

Information obtained from LVRC. Rate includes salary, paid time off, bonuses, and 35% employer costs for taxes, insurance, medical/dental benefits, etc.

(a) Mr. Smith does not draw a salary. Based on the size of the company, an annual salary of \$200,000 per year appears reasonable.

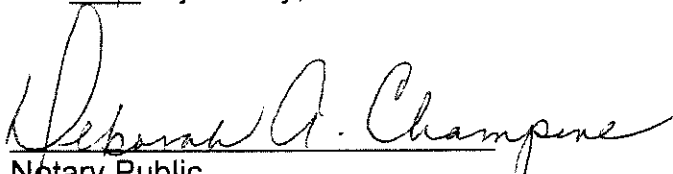
Statement of Stuart Smith

My personal objectives in filing this lawsuit were as follows:

- (1) To ensure that Mr. Brekka, Mrs. Quain and Employee Business Solutions, Inc. could not further disrupt and damage our corporation, interfere with our clients or otherwise utilize our proprietary company information and materials.
- (2) Receive compensation for the damages suffered as a result of the unlawful activities and behaviors that Mr. Brekka, Mrs. Quain, and Employee Business Solutions, Inc. Also to collect any punitive damages the Court may assess for the activities and behaviors of the defendants.
- (3) To receive equitable relief available to LVRC Holdings under the law.


Stuart Smith

Subscribed and sworn to before me
this 27 day of July, 2006.


Notary Public